

BEFORE THE
PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA

IN RE: BellSouth Telecommunications, Inc. Transit
Traffic Tariff 2005-50

Docket No. 2005-63-C

**BELLSOUTH'S ANSWER TO
SECCA'S COMPLAINT AND PETITION TO INTERVENE**

Pursuant to this Commission's March 23, 2005 Notice, BellSouth Telecommunications, Inc. ("BellSouth") submits this Answer to the Complaint and Petition to Intervene ("Complaint") filed by the Southeastern Competitive Carriers Association ("SECCA") on February 23, 2005. Although titled, in part, as a "complaint," SECCA's filing appears to constitute more of an intervention and does not request any specific relief other than permission to intervene. BellSouth does not object to SECCA's participation in this docket so long as SECCA's intervention is not detrimental to BellSouth. For example, if SECCA's individual member companies seek to separately intervene, then SECCA's participation could be duplicative and unnecessary. Moreover, if BellSouth needs to discover information from SECCA that requires SECCA to interact with its individual member companies, SECCA should not object to the discovery or decline to provide substantive responses to the discovery on the grounds that its members are not parties to this proceeding.¹ If SECCA is willing to participate in this

¹ BellSouth is not suggesting that SECCA's Complaint is intended as a vehicle to obstruct discovery, nor does BellSouth know, at this juncture of this docket, whether discovery is required. BellSouth, however, has been involved in proceedings in other states in which associations have created discovery disputes in this manner and, in an effort to avoid any such issues here, BellSouth raises this concern now.

proceeding in such a manner, then BellSouth does not object to SECCA's intervention as a party of record.

INTRODUCTION

This case involves a dispute over a transit traffic tariff. Transit traffic is traffic that originates on the network of one carrier, transits or traverses over BellSouth's network, then terminates on the network of a third carrier.² For example, a CLEC's end user customer may place a call to the customer of an independent, non-BellSouth ILEC. Such a call may originate with a CLEC, travel (or transit) through BellSouth's tandem switch, and terminate on the independent ILEC's network. The converse may also occur. BellSouth is essentially in the middle of such a call flow and is neither the originating nor terminating carrier of transit traffic. BellSouth has no duty under Section 251(c)(2) of the Act to provide transit traffic at TELRIC rates.³ BellSouth, however, provides rates, terms and conditions for the provision of transit service to many carriers pursuant to contractual agreement and is entitled to compensation for providing this service.⁴ BellSouth has filed a new tariff, General Subscriber Services Tariff § A.16.1, Transit Traffic Service ("transit tariff"), that sets forth certain rates, terms and conditions that apply when carriers receive transit service from BellSouth but have not entered into a contractual agreement with BellSouth setting forth rates, terms and conditions for the provision of transit services. Because BellSouth's transit tariff, by its own terms, applies as a default only

² See e.g., *Texcom, Inc. v. Bell Atlantic Corp.*, Memorandum Opinion and Order, ¶ 4, FCC File No. EB-00-MD-14 (rel. Nov. 28, 2001); also Order No. PSC-01-0824-FOF-TP, pp. 102-105.

³ See *Virginia Arbitration Order*, ¶ 117, 17 F.C.C.R. 27039 (FCC Wireline Competition Bureau, July 17, 2002); and *In re: Arbitration Petition of Cavalier Telephone LLC*, ¶ 38 (FCC Wireline Competition Bureau, Dec. 12, 2003).

⁴ See *Virginia Arbitration Order*, ¶ 177 ("any duty Verizon may have under section 251(a)(1) of the Act to provide transit service would not require that service to be priced at TELRIC"). Consistent with the *Virginia Arbitration Order*, even if a Commission believes that ILECs have a duty to provide transit service (which BellSouth does not), any such obligation would arise under section 251(a) and, therefore, would apply equally to all carriers.

in the absence of an existing contractual agreement, the tariff does not apply to SECCA's members identified in Paragraph 1 of the Complaint (namely, Time Warner Telecom of South Carolina, LLC, US LEC of South Carolina Inc., and XO Long Distance Services, Inc.). These entities have existing contractual relationships with BellSouth.⁵

As a general matter, BellSouth does not object to providing transit service to other carriers so long as it is adequately compensated for such service. In some instances, however, carriers have been unwilling to enter into contractual relationships with BellSouth that set forth the rates, terms, and conditions for BellSouth's transit service. This problem becomes exacerbated when carriers have not entered into direct interconnection agreements with one another, electing instead to send traffic to BellSouth's tandem switch, which traffic is intended to terminate on another carrier's network.⁶ In the absence of a contractual relationship, BellSouth's transit tariff operates as a "default," thus preventing BellSouth from having to bear the cost of transiting traffic that it neither originates nor terminates.

RESPONSE TO SPECIFIC ALLEGATIONS

1. Paragraph 1 of the Complaint does not require a response from BellSouth.
2. Paragraph 2 of the Complaint does not require a response from BellSouth.

BellSouth also states that all correspondence, pleadings, and other documents related to this proceeding should be sent to the undersigned.

3. BellSouth admits that it filed a new transit tariff, Section A16.1, Transit Traffic Service as part of its South Carolina General Subscriber Service Tariff on or about February 2,

⁵ BellSouth's records indicate XO Long Distance Services, Inc. rather than XO Communications Services, Inc. (the named entity in SECCA's Complaint) is the entity with whom BellSouth has an interconnection agreement in South Carolina.

⁶ All carriers can, of course, establish direct interconnection agreements with any other carrier.

2005 and that its transit tariff has an effective date of February 16, 2005. The relevant provisions of BellSouth's transit tariff speak for themselves and require no response from BellSouth.

4. BellSouth admits that SECCA's members (Time Warner, US LEC, and XO) provide certain service in South Carolina. BellSouth denies that SECCA's members "must use BellSouth's transit services to interconnect with other local carriers." SECCA's members may elect to interconnect directly with other carriers and are not required to use BellSouth's services for interconnection. BellSouth's position regarding SECCA's request to intervene as a formal party of record is set forth above at the beginning of this Answer. BellSouth denies any remaining allegations in Paragraph 4.

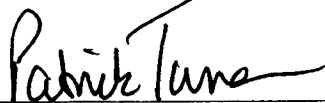
5. BellSouth's position regarding SECCA's request to intervene as a formal party of record is set forth above at the beginning of this Answer. SECCA's statement of its position requires no response from BellSouth at this time, and BellSouth reserves the right to more fully address SECCA's position as this docket progresses.

6. BellSouth's position regarding SECCA's request to intervene as a formal party of record is set forth above at the beginning of this Answer. BellSouth denies any remaining allegations in Paragraph 6.

7. Any allegation not expressly admitted herein is denied.

Respectfully submitted this 15th day of April, 2005.

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CERTIFICATE OF SERVICE

The undersigned, Nyla M. Laney, hereby certifies that she is employed by the Legal Department for BellSouth Telecommunications, Inc. ("BellSouth") and that she has caused BellSouth Telecommunications, Inc.'s Answer to SECCA's Complaint and Petition to Intervene in Docket No. 2005-63-C to be served upon the following this April 15, 2005:

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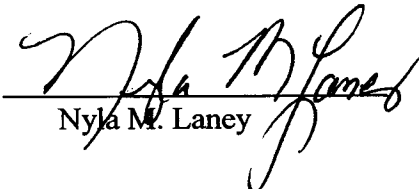
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